

DETAILED ACTION

Newly submitted claims 26-27 and the amended claims 1-4 and 6-11 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Original claims 1-12 were drawn to composition/product (i.e. dry mixture). The newly submitted claims are drawn to a method of producing a dry mixture. These inventions are related as the process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed could have been made by another and materially different method such as adding more water at the start so to avoid adding it at the end, and thus, evaporating just enough to be able to form a mold.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, instantly amended claims 1-4, 6-11 and new claims 26-27 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on April 14, 2009 amending all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention, either new claims or claims which have been amended to reflect a non-elected invention, is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention for the reasons set forth above.

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Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PEGAH PARVINI whose telephone number is (571)272-2639. The examiner can normally be reached on Monday to Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pegah Parvini/
Examiner, Art Unit 1793

/Michael A Marcheschi/
Primary Examiner, Art Unit 1793